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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON

U.S. COURT OF APPEALS

FLAVOR ORGANICS INCORPORATED, a
New Jersey corporation,

Plaintiff - Appellant,

v.

J.R. WOOD INCORPORATED, a California
corporation,

Defendant - Appellee.

No. 02-36005

D.C. No. CV-01-00298-OMP

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Owen M. Panner, Senior District Judge, Presiding

Argued and Submitted December 3, 2003
Seattle, Washington

Before: KLEINFELD, GOULD, and TALLMAN, Circuit Judges.

Flavor Organics appeals the district court's judgment in favor of J.R. Wood. Specifically, it appeals the court's determination that Flavor, through its representative David Weisman, granted its attorney Joseph Field actual authority

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

to settle the action on its behalf. We have jurisdiction under 28 U.S.C. § 1291. Because the scope of authority granted to an agent is a factual issue, *NLRB v. Donkin's Inn, Inc.*, 532 F.2d 138, 141 (9th Cir. 1976), we review the district court's findings for clear error. *Troutt v. Colo. W. Ins. Co.*, 246 F.3d 1150, 1156 (9th Cir. 2001).

The district court concluded that Weisman's "objective manifestations" showed that he gave Field actual authority to accept the settlement agreement. Sufficient circumstantial evidence exists in the record to support the district court's factual findings. *See Kaiser Found. Health Plan v. Doe*, 903 P.2d 375, 379 (Or. App. 1995). Moreover, it is solely within the province of the district court to judge the credibility of the witnesses. *See Johnson v. Tesky*, 643 P.2d 1344, 1347 n.1 (Or. App. 1982). The district court's factual finding that the testimony and evidence established that Weisman granted Field actual authority to enter into a binding agreement is not clearly erroneous.

AFFIRMED.